



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE THURSDAY, 31 JANUARY 2013

Title	PROPOSED SALE OF RYDE THEATRE / TOWN HALL, RYDE
Report to	THE DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND REGULATORY SERVICES

EXECUTIVE SUMMARY

1. To approve the sale of the Council's freehold interest in Ryde Theatre / Town Hall for the sum of £300,000.
2. The outcome will be a capital receipt from this sale towards the annual capital receipts target as set out in the Council's medium term financial plan and in accordance with the strategic asset management plan approved in 2011. It will also result in the building being retained as a theatre for the foreseeable future.

BACKGROUND

3. During 2012 Ryde Theatre and Town Hall was offered for sale, without restriction, on the open market resulting in a cabinet member delegated decision (reference 35/12) to sell for a consideration of £400,000 (the two highest bids received being for £390,000 and £400,000). Solicitors were instructed accordingly.
4. Unfortunately, the proposed purchaser took the decision to withdraw from the purchase in November and, in light of this withdrawal, the selling agents were instructed to approach the under-bidders to establish whether any were still prepared to purchase the property. This resulted in a bid from one of these parties at £300,000, with the purchaser confirming that, "we will be continuing to run the theatre indefinitely and it will be available to be used and booked for other events." The purchaser has also confirmed that the public toilets could remain open provided that there were managed by the Council.
5. The Carnegie Trust covenant under the terms of the 1986 Deed of Trust (referred to in decision reference 35/12) requiring public access to the refurbished organ has now expired. Under this deed the Council had the option of removing the organ from the town hall during a 21 year period from 1985 but, whilst alternative sites were considered, the costs of moving the organ were the prohibiting factor. The proposed purchaser may provide public access to the organ by agreement for the 2 years following the sale, during which time the Council may consider its relocation.

6. The Council has vacated the Town Hall offices, but remains “in occupation” of the rooms containing the ICT equipment and CCTV equipment for Ryde. A legal completion date of on/before 31 March 2013 has been agreed with the proposed purchaser to allow final relocation of the ICT equipment (which is currently in hand). Agreement has also been reached for a lease-back to the Council of the room containing the CCTV equipment.
7. An aerial is located on the roof of Ryde Theatre which serves Shopwatch, a security service used by many shopkeepers in Ryde. The Council's CCTV team is currently investigating options for the relocation of this aerial to an alternative site in Ryde. The proposed purchaser is aware of this and has confirmed it is willing to agree mutually satisfactory terms for either its continued siting at the theatre or to allow time for an alternative location to be identified.
8. The building is Grade II listed and, in accordance with the English Heritage Guidance Note relating to the disposal of such properties, the proposed purchaser has provided evidence of its funding source. The marketing agents have, therefore, recommended the £300,000 offer for acceptance.

STRATEGIC CONTEXT

9. In December 2010 the Council's Cabinet agreed the future shape and direction of the organisation of which one of the key principles is “the Council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximise capital receipts, or lease them where it is not.”
10. The disposal of Council assets will contribute towards a number of the Isle of Wight Council's priorities, as detailed in the Corporate Plan for 2011-2013.
 - Delivery of budget savings through changed service provision: delivering services in different ways will allow the release of council buildings thereby creating significant savings of accommodation and maintenance costs, as well as generating capital receipts.
 - Regeneration and the Economy: seeking the best quality use of surplus/disused property assets may ensure high quality regeneration opportunities are realised.
11. The disposal is identified in the strategic asset management plan approved in 2011.
12. If this property is disposed of it will release a capital receipt into the Council's corporate account as part of the annual capital receipts target.

CONSULTATION

13. In light of the timescales involved in approaching the under-bidders, no consultation has taken place locally regarding this new offer. This new proposal is however, not dissimilar to that which was previously accepted by the Council and now withdrawn. There is therefore a presumption that the comments made in response to the publication of the previous delegated decision paper also apply to this new one.
14. A briefing of some local members was held on 12 September 2012 where the proposals contained in the previous decision report (35/12) were generally welcomed for their

potential to bring life back to the building and the part of the town where the theatre is situated. Some issues were raised including:-

- The need to agree with the purchaser as part of the sale conditions a minimum standard of maintenance of the public conveniences (no longer an issue with the current purchaser, as these will remain the responsibility of the council).
- The need to agree with the purchaser as part of the sale conditions minimum hours of opening of the public conveniences (again, no longer an issue with the current purchaser, as these will remain the responsibility of the council).
- Consideration to be given to an overage clause being inserted into the sale conditions should the building be converted to residential use. However, because the property was marketed without constraint in order to achieve best value, the council is not able to impose such a condition following completion of marketing/selection of a preferred bidder.

15. Two local members confirmed, following the briefing, that they were against the sale of the theatre and that they wished to see the Town Council and local people consulted over any potential use of the building. Other local members said that they would make representations to be taken into account when the previous delegated decision was taken by the Cabinet Member. All representations were taken into account when the previous decision was taken.

FINANCIAL / BUDGET IMPLICATIONS

16. The Council is currently liable for all outgoings in respect of the vacant property such as business rates and insurance plus any ongoing maintenance liabilities. It is therefore in the Council's best interest to dispose of the property as soon as possible. To mitigate against such outgoings, the Council was in receipt of empty business rates relief, on the vacant parts of the property, however, this rates relief period has now expired. Any revenue budget savings arising from disposal of this property will contribute to the Council's savings target for accommodation costs.
17. If the recommendation made within this report is adopted the Council will benefit from a capital receipt in the sum of £300,000, and annual revenue savings of approximately £41,500, based on the 2011/12 outgoings (reflecting the fact that the theatre has been unused since 2009).

LEGAL IMPLICATIONS

18. The Council currently holds the property on a freehold basis.
19. The Council will retain ownership of the war memorial on the southern side of the building via a 999 year lease. If the war memorial is relocated away from Ryde Theatre at any time during the lease and this area no longer needs to remain in the control of the Council, the freehold interest will be offered to the purchaser for £1.
20. Whilst it is considered that the Council has no obligation to ensure that a new purchaser of the building maintains public access to the organ, the proposed purchaser is prepared to consider this, but is not prepared to enter into any covenant to this effect.

21. The land and public right of way beneath the porticos on the southern and eastern side of the building will not be included in the transfer and will continue to be maintained by the Council as Highway Authority.
22. The public toilets will be leased back to the Council on a 999 year ground lease at a rent of £200 per annum.
23. The CCTV hub for Ryde is located within a small room within the building and this will be leased to the Council at a rent of £100 per annum for a maximum term of 27 months, subject to a rolling break clause option (the new owner would have to give a minimum 12 months notice to terminate this lease).
24. An agreement needs to be reached between the Council and the proposed purchaser regarding the relocation of the Shopwatch aerial. Options for this are currently being investigated.
25. The Council has the ability to dispose of property under Section 123 of the Local Government Act 1972 for best consideration.

CARBON EMISSIONS

26. During the last financial year, this building was not fully in use and therefore has reduced energy consumption. A carbon saving of approximately 141 tCO₂ was identified for the disposal of this building within the Council's Carbon Management Plan but as a result of its reduced use during the last year, it has already saved circa 100 tCO₂ of that.
27. As a direct result of this disposal, a carbon saving of 35 tCO₂ will be achieved, representing £420 annual revenue saving from the CRC Energy Efficiency Scheme

PROPERTY IMPLICATIONS

28. It is considered that property implications are adequately covered within the main body of this report.

EQUALITY AND DIVERSITY

29. The Council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the nine "protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership).
30. The closure of the theatre was covered by previous reports which addressed the issues of public access, and the relocation of the Community and Wellbeing Directorate services from the building including equality impact assessments which addressed any service issues at that time.
31. A stage 1 equality impact assessment initial screening form was completed for the previous sale (decision 35/12); which did not identify any negative impacts from the proposal. As nothing has changed in terms of equality and diversity the assessment has been retained and this report, therefore, considers that none of the identified groups are likely to be adversely affected by this decision.

SECTION 17 CRIME AND DISORDER ACT 1998

32. There are not believed to be any specific crime and disorder issues, other than vacant properties can be prone to vandalism and it is therefore in the Council's interests to dispose of the building as soon as possible.

OPTIONS

33. Options have been considered in respect of this property as follows:
- (a) To sell the property as detailed above and accept the offer of £300,000.
 - (b) Not to accept the offer but to continue to market the property for a longer period in the hope of achieving a higher capital receipt.

RISK MANAGEMENT

34. Option (a) represents limited risk to the Council as it has followed a robust marketing route that has included research into the funding method/ability of the proposed purchaser.
35. Option (b) comprises a high risk as the existing applicant is likely to withdraw. Also, due to the level of exposure to the market, it is unlikely that a better offer may be received. Indeed the major risk of this course of action would be that a lower offer ultimately has to be agreed, particularly in light of the potential for continued falls in the property market, or that no offer is forthcoming and the Council is left with a large vacant building for which it has no use, and for which there is no maintenance budget.

EVALUATION

36. The availability of the property has been marketed widely. However, this marketing has coincided with a time of continued uncertainty within the property markets. Whilst several applicants have viewed the property, the agents consider it unlikely that a higher offer will be received and, therefore, option (b) is not recommended.
37. Whilst the property was marketed without restriction as to use, the bidder has stated that its proposed principal use is for theatre/venue purposes. As the Council's previous aspiration for the building was to secure its use as a continued theatre/venue officers sought to clarify whether the bidder would be prepared to accept a condition of sale that the building was to be used as a theatre/venue for a minimum period. The proposed purchaser is not prepared to accept such a condition as its bid has not been made on this basis, and the market will determine whether the building could continue to sustain such a use in the future. It has, however, confirmed that it will continue to run the theatre "indefinitely", if the use remains economically viable.
38. The property was actively marketed for a period in excess of 4 months, prior to the previous decision (35/12) allowing a reasonable period of time for potential purchasers to arrange to bid for the facility and/or for local groups and organisations to make representations to the Council in respect of its proposed sale. Only the Town council made written representations in respect of the proposed sale and these comments were taken into account by the Cabinet Member when making the previous decision.

RECOMMENDATION

39. Option (a) - To sell the property as detailed above and accept the offer of £300,000.

APPENDICES ATTACHED

40. [APPENDIX](#) - Site plan

Contact Point - Barry Cooke, Strategic Manager Assets

☎ 01983 821000 e-mail: barry.cooke@iow.gov.uk

JOHN METCALFE
Deputy Director
Economic Development

COUNCILLOR GEORGE BROWN
Deputy Leader and Cabinet Member
Economy and Regulatory Services

Decision

Signed

Date
